

**FUNERAL DIRECTORS EXAMINING BOARD
MINUTES
MADISON, WISCONSIN
JANUARY 15, 2002**

PRESENT: W. Robert Cress, Dan Densow, Bonnie Gift, Roy Pfeffer and Rick Unbehaun,

EXCUSED: All members were present.

STAFF PRESENT: Clete Hansen and Jacquelynn Rothstein, Legal Counsel. Judy Mender and Division of Enforcement staff were present for portions of the meeting.

GUESTS: Erin Longmire, FSA
Mark Paget, WFDA

CALL TO ORDER

The meeting was called to order at 9:33 a. m. by Roy Pfeffer, Chair. A quorum of 5 members was present.

AGENDA

MOTION: Dan Densow moved, seconded by Bonnie Gift, to approve the agenda as written. Motion carried unanimously.

MINUTES (11/6/01)

MOTION: Dan Densow moved, seconded by Bonnie Gift, to approve the minutes, as written. Motion carried unanimously.

ELECTION OF OFFICERS

MOTION: Dan Densow moved, seconded by Robert Cress, to nominate Roy Pfeffer as Chair of the Board. Motion carried unanimously.

MOTION: Rick Unbehaun moved, seconded by Roy Pfeffer, to nominate Dan Densow as Vice Chair of the Board. Motion carried unanimously.

MOTION: Robert Cress moved, seconded by Bonnie Gift, to nominate Rick Unbehaun as Secretary of the Board. Motion carried unanimously.

ADMINISTRATIVE REPORT

Bureau Director's Report

- **Board Roster**

The Board noted and briefly discussed Pete Schils' letter of resignation from the Board.

- **2002 Meeting Dates**

Dan Densow said that he would not be available for screening complaints on February 18, 2002. Roy Pfeffer and Densow agreed that February 11 would be a good alternative date, if DOE staff can arrange the screening on that date.

- **Summary Report on Pending Court Cases, Disciplinary Cases and Administrative Rules**

Noted

- **To-Do List**

Noted

- **To-Pass Folder**

The To-Pass Folder was circulated and duly noted.

LEGISLATIVE UPDATE

Regulation of Crematories

Roy Pfeffer and Dan Densow summarized that discussion and the actions taken at a meeting they attended with Secretary Oscar Herrera, Clete Hansen, Glenn Porter, III, Richard Riesch, George Petak, Tom Hanson, Pete Gunderson and Patrick Essie.

The Board received a copy of the following documents:

1. Correspondence sent by E. Glenn Porter, III, to Secretary Oscar Herrera on November 29, 2002.
2. Secretary Herrera's response to Mr. Porter, dated December 10, 2001.
3. The minutes of the meeting of January 4, 2002, dated January 7, 2002, and prepared by Clete Hansen.

MOTION: Robert Cress moved, seconded by Rick Unbehaun, to approve the agreements reached at the meeting convened by Secretary Oscar Herrera on January 4, 2002. Motion carried unanimously.

The Board discussed Richard Riesch's concern that the proposal may require crematories to have modern equipment in order to be registered. Mr. Riesch is a cemetery official who operates a crematory in Milwaukee. Mr. Riesch's concern relates to lines 21 and 22, on page 6 of the LRB

draft. The Board informally agreed that these lines ask for information, but they do not establish minimal criteria for registering a person as a crematory authority.

The Board also reviewed a memorandum received from Peggy Peterson of the Wisconsin Department of Health and Social Services. Ms. Peterson made the following two statements in her memorandum:

1. The language does not seem to include the possibility of direct cremation (with family making the arrangements without a funeral director involved). This is current practice and a number of people do take advantage of this method of disposition every year. You will definitely hear from the Cremation Society if that "right" is limited by this legislation.

2. The proposed regulatory language (page 33) mandates that a copy of a completed death certificate be presented to the crematory operator. This may be impossible to accomplish in many cases without violating s. 69.24. Funeral directors are not allowed to make copies of death certificates (there is a \$10,000 fine for making illegal copies of vital records). They must file the death certificate with the local registrar and obtain legal copies from that office (or from the State Vital Records Office). If the cremation happens on the weekend, a legal copy of the death certificate will not be available. Our office could not support this requirement knowing that it would invariably lead to illegal copying of vital records.

I don't think it is necessary for the crematory staff to see the death certificate since the coroner/medical examiner has investigated the cause of death and has issued a release (permit) to cremate that is (hopefully) based on having verified the cause of death. The death certificate rarely indicates the presence of a pacemaker, etc., so it would not even be useful in determining the presence of volatile material in the body.

The Board concluded that Ms. Peterson's interpretation in the first statement is incorrect. This proposal would not prohibit direct cremation.

The Board requested that Jacquelyn Rothstein and Cleve Hansen confer with Ms. Peterson about requirements relating to copies of death certificates.

Referring to the provisions on page 13, lines 13 to 17, the Board noted that there appears to be some practices in the industry that vary from what Ms. Peterson says the law requires or prohibits, such as the fact that it is not considered a violation to make a copy of a death certificate, provided that one cuts off the top portion of the form. Board members also noted that coroners' offices and banks also make copies of death certificates.

Roy Pfeffer also requested that the staff should suggest that the drafter make reference in the proposal to the 48-hour waiting period in s. 979.10, Stats.

SB-171 and AB 376, Relating to Funeral Establishment Permits

Cleve Hansen reported that he attended the Executive Session of the Assembly Committee. The Committee voted 10 to 0 to support the bill without any amendments. Hansen reported that the Senate has not yet had an executive vote on the bill.

Other Legislation

None

WINTER BURIALS

The Board noted correspondence between Mark Paget and Clete Hansen concerning the new law that requires winter burials. The Board also noted a copy of a notice that the Department sent to registered cemeteries, and a draft of a press release.

ADMINISTRATIVE RULES

The meeting packet included a copy of the most recent rule revisions promulgated by the Board. Clete Hansen and Mark Paget pointed out that s. FD 4.03 (4) might well have been repealed, because it appears to be redundant, in view of other similar provisions in s. FD 4.03.

EXAMINATION ISSUES

The Board requested that Casey Brown report to the Board at the next meeting concerning how well Wisconsin candidates are doing on the NBE, whether using the NBE eliminates any work in the Department, and whether the Department receives any part of the exam fee.

BOARD MEMBER ACTIVITY

The Board noted that the 98th Annual ICFSEB Convention will be held on April 6-7, 2002.

MOTION: Dan Densow moved, seconded by Bonnie Gift, to approve the attendance of Rick Unbehauen at the 98th Annual ICFSEB Convention. Motion carried unanimously.

REMOVALS BY UNLICENSED PERSONS

Jacquelynn Rothstein informed the Board that she has been working on an opinion regarding this issue. She has also requested a review by William Dusso, General Counsel. This topic should be on the next agenda.

MISCELLANEOUS CORRESPONDENCE/INFORMATION

Correspondence Regarding the Funeral Director of a New Establishment

The Board informally agreed that s. 445.105 (2), Stats., requires that each funeral establishment must have a full-time funeral director assigned to it. If SB-171 and AB 376, relating to funeral establishment permits, were to become law, one funeral director could be in charge of both establishments.

Procedures for Monitoring Continuing Education

The Board noted the chart, prepared by Jack Temby, showing how monitoring of continuing education is carried out for various boards and the direct licensing professions in the Department.

The Loewen Group Becomes Alderwoods Group

The Board noted correspondence received from The Loewen Group concerning its changeover to the Alderwoods Group.

NEW BUSINESS

None

PUBLIC COMMENTS

None, over and above those already made during the discussion of specific topics.

RECESS TO CLOSED SESSION

MOTION: Rick Unbehaun moved, seconded by Bonnie Gift, to convene the meeting in Closed Session pursuant to Sections 19.85(1)(a), (b), (f), and (g), Wis. Stats., to consider the licensing or discipline of persons licensed by the Board or the investigation of charges against such a person. Specifically, to discuss the issue of case status reports, case closings, monitoring issues, extension requests, and pending applications. Motion carried unanimously by a roll call vote: Bonnie Gift - yes; Bob Cress - yes; Rick Unbehaun - yes; Dan Densow - yes; Roy Pfeffer - yes.

Open Session recessed at 11:26 p. m. and Closed Session convened at 11:36 p.m.

CLOSED SESSION

The Board discussed the Case Status Report with DOE staff, and deliberated an administrative warning and two requests for renewing a funeral director apprentice permit.

RECONVENE IN OPEN SESSION

MOTION: Robert Cress moved, seconded by Bonnie Gift, to reconvene in Open Session at 12:15 p. m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

ADMINISTRATIVE WARNING

Edna C. Banks and Banks Funeral Home (Milwaukee)

MOTION: Rick Unbehaun moved, seconded by Dan Densow, to issue an administrative warning to Edna Banks and Banks Funeral Home. Motion carried unanimously.

REQUESTS FOR RENEWAL OF APPRENTICE PERMIT

Nathan Boston

MOTION: Dan Densow moved, seconded by Rick Unbehaun, that the Board concludes that Mr. Boston is still eligible for 9 months and that staff should ask him when he wishes to have the 9-month period to begin. The motion was carried unanimously.

Ollie Renfro

The Board concluded that Mr. Renfro must complete the requirements for the exam. No motion is needed for this application of the law to Mr. Renfro's circumstances.

PENDING APPLICATIONS

None

ADJOURNMENT

MOTION: Rick Unbehaun moved, seconded by Bonnie Gift, to adjourn the meeting at 12:17 p. m. Motion carried unanimously.

Next Meeting Date: March 12, 2002